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**NOTICE OF ALLOWANCE AND ISSUE FEE DUE**

18N2/0106

TALIVALDIS CEPURITIS  
OLSON & HIERL, LTD.  
20 NORTH WACKER DRIVE  
SUITE 3000  
CHICAGO, IL 60606

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
08/419,824	04/11/95	006	DELANEY, P	1811 01/06/98
First Named Applicant	COCHRANE, CHARLES G.			

TITLE OF INVENTION: PULMONARY SURFACTANT PROTEINS AND RELATED POLYPEPTIDES

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEES DUE	DATE DUE
1 TSRI-147.200	514-013.000	W12	UTILITY	NO	\$1320.00	04/06/98

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.**

**THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.**

**HOW TO RESPOND TO THIS NOTICE:**

- I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as yes, verify your current SMALL ENTITY status:

- A. If the status is changed, pay twice the amount of the FEE DUE shown and notify the Patent and Trademark Office of the change in status, or  
B. If the status is the same, pay the FEE DUE shown above.

If the SMALL ENTITY is shown as NO:

- A. Pay FEE DUE shown above, or  
B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.

- II. Part B of this notice should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "6b" of Part B should be completed.

- III. All communications regarding this application must give application number and batch number. Please direct all communication prior to issuance to Box ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**



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08/419,824	04/11/95	COCHRANE	C TSRI-147.200

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EXAMINER

DELANEY, P

ART UNIT	PAPER NUMBER
1811	16

DATE MAILED: 01/06/98

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

**NOTICE OF ALLOWABILITY**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

- This communication is responsive to AMENDMENTS FILED 12/4/97 + 9/15/97.
- The allowed claim(s) is/are 26 - 28 + 40 - 42.
- The drawings filed on \_\_\_\_\_ are acceptable.
- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All  Some\*  None of the CERTIFIED copies of the priority documents have been received.
- received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE THREE MONTHS FROM THE "DATE MAILED" of this Office action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.
- Applicant MUST submit NEW FORMAL DRAWINGS
- because the originally filed drawings were declared by applicant to be informal.
- including changes required by the Notice of Draftsperson's Patent Drawing Review, PTO-948, attached hereto or to Paper No. 6.
- including changes required by the proposed drawing correction filed on \_\_\_\_\_, which has been approved by the examiner.
- including changes required by the attached Examiner's Amendment/Comment.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

- Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any response to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

**Attachment(s)**

- Notice of References Cited, PTO-892
- Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Notice of Informal Patent Application, PTO-152
- Interview Summary, PTO-413
- Examiner's Amendment/Comment
- Examiner's Comment Regarding Requirement for Deposit of Biological Material
- Examiner's Statement of Reasons for Allowance

*Amendt* B

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### Part III DETAILED ACTION

#### Closure of Prosecution

Claims 26-28 and 40-42 are active. All other claims have been canceled.

Applicant's amendment filed September 15, 1997 and supplementary amendment filed December 4, 1997 render all statutory double patenting rejections moot. Similarly the amendments and terminal disclaimers over US 5164369, US 5260273 and US 5407914 render all the non-statutory double patenting rejections moot.

All the remaining claims (claims 26-28 & 40-42) are now allowed.

#### Prior Rejections

All WITHDRAWN as moot.

#### Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

1.  In claim 26, line 3, after the term "KLLLLKLLLLKLLLLKLLLLK", please add the term (SEQ ID NO:1).
2.  In claim 40, line 3, after the term "KLLLLKLLLLKLLLLKLLLLK", please add the term (SEQ ID NO:1).

Authorization for this examiner's amendment was given in a telephone interview with Mr. Steve Weseman of the offices of Olson & Hierl, LTD. on January 2, 1997.

#### Reasons for Allowance

Jackson 4861756, the sole remaining reference of record fails to teach or suggest the pulmonary surfactant with the particular peptide sequence claimed. There is no prior art available to teach this.

#### Conclusion

Any comments considered necessary by Applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably accompany the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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**Future Correspondence**

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Patrick R. Delaney whose telephone number is (703) 308-4324.

Any inquiry of a general nature or relating to the status of this application should be directed to THE MATRIX CUSTOMER SERVICE CENTER whose telephone number is (703) 308-0196.

*Pw*  
Patrick R. Delaney  
January 2, 1997

*C Tsay*  
**CECILIA J. TSAY**  
**SUPERVISORY PATENT EXAMINER**  
**GROUP 162**